

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS

ARNULFO FONSECA,)	
)	
Plaintiff,)	
)	
-vs-)	No. 08-435-MJR
)	
CHARLES DAVID NELSON, Individually)	
and in his official capacity as State's Attorney)	
for Saline County, KEITH BROWN,)	
Individually, and in his capacity as Sheriff)	
of Saline County, KEN CLORE, MARK)	
LEVAUGHN, RANDY BUTLER, MIKE JONES,)	
BRAD NEAL, DAVID BLAZIER, TODD FORT,)	
STEVE SLOAN, MONA NELSON, All)	
Individually, SALINE COUNTY, SHERIFF'S)	
OFFICE OF SALINE COUNTY, STATE'S)	
ATTORNEY'S OFFICE OF SALINE COUNTY,)	
AND VILLAGE OF CARRIER MILLS,)	
)	
Defendants.)	

MOTION TO DISMISS

NOW COMES the Defendant, MARK LEVAUGHN, by his attorneys WINTERS, BREWSTER, CROSBY and SCHAFER LLC and, pursuant to Rule 12(b)(6) of the Federal Rules of civil Procedure, moves to dismiss plaintiff's complaint.

In support thereof, it is stated:

1. Defendant is absolutely immune from liability for actions taken as a testifying witness.
2. The Court upon dismissal of the Federal Claims should in its discretion refuse to exercise supplemental jurisdiction over the Plaintiff's State Law Claims.

WHEREFORE, Defendant, MARK LEVAUGHN, respectfully requests that this honorable Court dismiss Plaintiff's Federal Claims with prejudice and dismiss Plaintiff's State

Law claims without prejudice.

Attorney for Defendant,

By: /s/ Thomas F. Crosby

Thomas F. Crosby

Attorney for Defendant Mark LeVaughn

ARDC No. 3128836

WINTERS, BREWSTER, CROSBY and SCHAFER LLC

Attorneys at Law

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the above and foregoing instrument was electronically filed on January 6, 2009 with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Mr. Joseph A. Bleyer
Bleyer & Bleyer
601 West Jackson
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Ms. Karen McNaught
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Belleville, IL 62223

Mr. John P. Cranley
#2 Butternut Lane at Highway 157
Glen Carbon, IL 62034

and I hereby certify that on January 6, 2009, I mailed by U.S. Postal Service the document to the following non-registered counsel:

None

Dated this 6th day of January, 2009

/s/ Thomas F. Crosby

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